**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**L.P.A No. 65 of 2005.**

**Date of decision : 1.2.2007.**

**The Deputy Inspector General of Police,**
**Ambala Range, Ambala.**

**.....Appellant**

**through Mr.B.S.Rana, Addl.A.G.Haryana**

**v.**

**Randhir Singh, Ex.Constable No.60/Jind.**

**.....Respondent**

**through Mr.R.K.Malik, Advocate.**

**CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE**
**HON'BLE MR.JUSTICE RAJIVE BHALLA**

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Prayer in this Letters Patent Appeal is for setting aside the judgment, dated 30.7.2004, passed by the learned Single Judge, substituting the punishment of dismissal from service with compulsory retirement.

The respondent, while discharging his duties as a Constable in Police Lines, Jind, was placed under suspension. During his suspension, the respondent proceeded on two days' sanctioned leave. He was required to assume his duties on 26.1.1984 but he reported back to the Police Lines on 26.4.1984 i.e after a period of three months. Accordingly, a charge sheet was issued requiring the respondent to show cause why disciplinary

proceedings be not initiated against him. Eventually, and after the conduct of an inquiry, in accordance with the prescribed procedure, the respondent was dismissed from service by the Superintendent of Police, Jind, vide order, dated 7.12.1984. The appeal, filed by the respondent, was dismissed, by the Deputy Inspector General of Police, Ambala Range, Ambala Cantt. The respondent's memorial, filed before the Governor, was also rejected.

Aggrieved by the aforementioned orders, the respondent preferred a writ petition before this Court. The learned Single Judge, while rejecting the contention, raised by counsel for the respondent that the respondent was not guilty of misconduct, placed reliance upon rule 16.2 of the Punjab Police Rules, and held that the punishing authority, while imposing the punishment of dismissal from service, admittedly, did not take into consideration the fact that the respondent had rendered more than ten years of service. The punishing authority also failed to take into consideration that the respondent had not committed an act or omission that would fall with the words “gravest act of misconduct” and, therefore, held that as absence from duty was during the period of suspension, the punishment of dismissal from service was not justified. In view of the aforementioned finding, the learned Single Judge substituted the punishment of dismissal with the compulsory retirement from service.

Counsel for the appellants contends that the learned Single Judge erred in substituting the punishment of dismissal from service with the punishment of compulsory retirement, a Court cannot substitute its own appreciation of the facts in preference to the view, taken by the punishing authority.

Counsel for the respondent, on the other hand, contends that the

impugned judgment does not suffer from any error of law or fact as would warrant interference. The learned Single Judge rightly held that the respondent's infraction did not fall within the words “gravest act of misconduct”, as envisaged by rule 16.2 of the Punjab Police Rules, and as the respondent's absence was during the period of his suspension, the punishment of dismissal from service was not justified. It is contended that the learned Single Judge, upon an interpretation of Rules and an appraisal of facts, has, in essence, proceeded to hold that the punishment imposed was not commensurate to the offence alleged and, therefore, the impugned judgment does not merit interference.

We have heard learned counsel for the parties and perused the paper book.

The sole contention, raised by counsel for the appellants, is that the alteration of punishment from one of dismissal from service to one of compulsory retirement is legally unsustainable. The learned Single Judge, upon an appraisal of the facts, held that the punishing authority failed to consider relevant material, as also the fact that the alleged absence was during the period of suspension. It was, thus, concluded that the punishment of dismissal from service did not fall within the words “gravest act of misconduct”, as appearing in rule 16.2 of the Punjab Police Rules. The learned Single Judge placed reliance upon the judgment of the Hon'ble Supreme Court reported as State of Punjab and others vs Dharam Singh, 1997(2) SCC 550 to hold that the facts of the case did not warrant the imposition of penalty of dismissal from service. The learned Single Judge, thus, in essence, held that the punishment imposed was disproportionate to the infraction alleged and, therefore, did not commit any error in

substituting the punishment of dismissal from service with compulsory retirement. The reasoning, adopted by the learned Single Judge, is just, fair, legal and valid and, therefore, does not merit any interference. The impugned judgment, thus, does not call for any interference. Consequently, this Letters Patent Appeal is dismissed.

**( VIJENDER JAIN )**
**CHIEF JUSTICE**

**( RAJIVE BHALLA )**
**JUDGE**

**February 01, 2007.**
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